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CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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FINAL NOTICES

The Citizens' Law Enforcement Review Board made the following findings in the closed session portion of its November 9, 2010 meeting, held at the San Diego County Administration Center, 1600 Pacific Highway, Room 302/303, San Diego, CA 92101. Minutes of the open session portion of this meeting will be available following the Review Board's review and adoption of the minutes at its next meeting. Meeting agendas, minutes, and other information about the Review Board are available upon request or at www.sdcountry.ca.gov/clerb.

CLOSED SESSION

- a) **Discussion & Consideration of Complaints & Reports:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session).

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

CASES FOR SUMMARY HEARING (7)

ALLEGATIONS, FINDINGS & RATIONALE

09-100

- Excessive Force – Deputy 1 escorted the injured complainant down a stairwell while lifting his handcuffs upward and forward. He then pushed the complainant's face forward into a steel door and threw him down onto the cement floor resulting in bruising to his cheek and temple and reddening of his eye.

Board Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Discourtesy – Deputy 1 said to the complainant, “Listen you piece of shit deal with it,” and “Fuck you baby raper.”

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Intimidation – Deputy 1 said to the complainant, “You’ll get what’s coming to you,” and “if you move it will be painful.”

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Misconduct/Procedure – Deputy 2 failed to take action when the complainant told him about deputy misconduct and showed him “the cuts and horrific bruising on my wrist.”

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

5. Misconduct/Procedure – Deputy 1 endangered the complainant’s life by disclosing his charges to other inmates and telling Harris, “You’re fucked”.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

6. Misconduct/Harassment – Deputies 1 and 2 entered the complainant’s cell and told his cellmate to “get your shit ready, you’re not going to want to be in this” as they stood by intimidating manner with balled fists.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

7. Misconduct/Intimidation – Deputy 1 with “hate in his eyes and a scowl that screamed anger” threateningly said to the complainant, “Don’t sleep.”

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

8. Misconduct/Procedure – Deputy 2 refused to review videotape evidence, interview witnesses and told the complainant, “There is nothing I can do.”

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

9. Misconduct/Procedure – Deputies 1 and 2 did not properly process the complainant’s medical request form for injuries and refused to initial it or provide a copy to him.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

10. Misconduct/Discourtesy – Deputy 2 said in response to the complainant’s criticism of jail conditions, “It’s fucking jail. Welcome to George Bailey.”

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

11. Misconduct/Procedure – Deputy 2 denied the complainant phone, shower and yard privileges for 6 days although disciplinary action was only for loss of commissary items.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

12. Misconduct/Procedure – Deputy 2 failed to properly process the complainant's money orders.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

09-107

1. Misconduct/Procedure - Deputy 1 housed the complainant with inmates where the complainant said he did not feel safe.

Board Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Procedure – Deputies 1, 2 and/or 3, when told that other inmates had threatened the complainant, failed to move the complainant. The complainant was later beaten by the inmates who had threatened him.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

09-109

1. Misconduct/Procedure - Deputy 1 wrote the complainant up for disobeying an order to move, which resulted in discipline, even though the complainant was unable to comply because he is wheelchair-bound.

Board Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Discourtesy - Deputy 1 slammed the cell door and cursed at the complainant stating "Well then you can go on Lock-down."

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Discrimination/Other - Deputy 2 placed the complainant into Administrative Segregation to punish him because he is in a wheelchair.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

09-112

1. Illegal Search & Seizure – Probation Officer 1 searched the complainant’s property in Lakeside on September 30, 2009, for a former tenant.

Board Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers’ Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Illegal Search & Seizure – Probation Officer 1 raided the complainant’s property in Santee on October 8, 2009.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Excessive Force / Brandishing Firearm – Probation Officer 1 pushed a gun into the face of a senior citizen doing dishes.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Misconduct/Discourtesy – Probation Officer 1 demonstrated “high-fives” during their raid.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

5. False Arrest – Probation Officer 1 handcuffed, questioned and took mugshots of tenants with no 4th waiver for over two hours.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

6. Excessive Force/Handcuffs – Probation Officer 1 handcuffed a woman with cerebral palsy.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

7. Misconduct/Truthfulness – Probation Officer 1 untruthfully stated they were given permission to enter the residence by the residents.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

(Please note: Present allegations against Department of Planning & Land Use and past allegations against the San Diego Sheriff’s Department; do not fall within CLERB’s jurisdiction.)

09-115

1. Misconduct/Procedure – Deputy 2 did not comply with co-complainant Braggs’ medical chronos.

Board Finding: Sustained

Rationale: On October 9, 2009, co-complainant Braggs reported to the Recreation Yard for a weekly clipper shave and was turned away because the inmate barber did not have the appropriate tools. Documentation was unavailable to demonstrate compliance with policy; therefore the evidence supports a violation of Sheriff's Policy and Procedure, L.9 Inmate Haircuts, and San Diego Central Jail Green Sheet, L.9.C.1 Inmate Haircuts.

2. Misconduct/Discourtesy – Deputy 1 told co-complainant Braggs, “Because I fucking said so!”

Board Finding: Not Sustained

Rationale: Deputy 1 denied making this statement. Other witnesses that may have been present could not be properly identified. There is insufficient evidence to either prove or disprove this allegation.

3. Misconduct/Procedure – Deputy 2 did not comply with co-complainant Williams's medical chronos for shaving bumps.

Board Finding: Sustained

Rationale: On October 9, 2009, co-complainant Williams reported to the Recreation Yard for a weekly clipper shave and was turned away because the inmate barber did not have the appropriate tools. Documentation was unavailable to demonstrate compliance with policy; therefore the evidence supports a violation of Sheriff's Policy and Procedure, L.9 Inmate Haircuts, and San Diego Central Jail Green Sheet, L.9.C.1 Inmate Haircuts.

4. Misconduct/Discourtesy – Deputy 1 “had attitude” and was rude to co-complainant Williams.

Board Finding: Not Sustained

Rationale: Deputy 1 denied having any contact or making any statements to co-complainant Williams. Other witnesses that may have been present could not be properly identified. There is insufficient evidence to either prove or disprove this allegation.

09-120

1. Illegal Search & Seizure – Deputy 1 stopped the complainant for no apparent reason.

Board Finding: Summary Dismissal

Rationale: Court decisions applicable to the Review Board and Government Code §3304(d) of the Public Safety Officers' Procedural Bill of Rights require that an investigation of a misconduct allegation that could result in discipline be completed within one year of discovery of the allegation, unless statutory exceptions apply. A review of the complaint showed no exceptions applied. Staff did not complete investigation of the complaint within one year, therefore the Review Board lacks jurisdiction.

2. Misconduct/Procedure – Deputy 1 spoke to the English-speaking complainant in Spanish.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

3. Misconduct/Discourtesy – Deputy 1 “cussed” at the complainant in Spanish.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

4. Criminal Conduct – Deputy 1 seized the complainant's wallet and then ordered him to leave without further explanation.

Board Finding: Summary Dismissal

Rationale: See Rationale #1.

10-093

1. Excessive Force/Other - Deputy 1 punched the complainant in the face, grabbed her by the hair, threw her to the ground, stomped on her face twice and kicked her in the back.

Board Finding: Summary Dismissal

Rationale: Deputy 1 was off duty at the time of this incident, and at no time activated his status as a peace officer employed by the Sheriff's department. As such, these allegations are not within CLERB's jurisdiction. This complaint is referred back to the Sheriff's Department Internal Affairs Division which has the authority to investigate this matter.

2. Misconduct/Discourtesy - Deputy 1 yelled into the face of the complainant.

Board Finding: Summary Dismissal

Rationale: See Rationale #1

3. Excessive Force/Other - Deputy 1 chased and tackled the boyfriend of the complainant after he attempted to push the deputy off of the complainant.

Board Finding: Summary Dismissal

Rationale: See Rationale #1